

WORKERS' COMPENSATION DIVISION[876]

Notice of Intended Action

Proposing rule making related to payroll tax tables and address and providing an opportunity for public comment

The Workers' Compensation Commissioner hereby proposes to amend Chapter 1, "Purpose and Function," Chapter 4, "Contested Cases," Chapter 5, "Declaratory Orders," Chapter 7, "Petition for Rule Making," Chapter 8, "Substantive and Interpretive Rules," Chapter 9, "Public Records and Fair Information Practices," and Chapter 12, "Formal Review and Waiver of Rules," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 86.8.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 85.61.

Purpose and Summary

These proposed amendments update references to the tables which determine payroll taxes and update the address of the Division of Workers' Compensation.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Commissioner for a waiver of the discretionary provisions, if any, pursuant to rule 876—12.4(17A).

Public Comment

Any interested person may submit written comments concerning this proposed rule making. Written comments in response to this rule making must be received by the Commissioner no later than 4:30 p.m. on April 14, 2020. Comments should be directed to:

Heather Palmer
Division of Workers' Compensation
150 Des Moines Street
Des Moines, Iowa 50309
Email: heather.palmer@iwd.iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)"b," an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental

subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule 876—1.2(86,17A) as follows:

876—1.2(86,17A) Location. Interested persons may contact the Iowa Workers' Compensation Commissioner, ~~1000 East Grand Avenue (mailing address),~~ 150 Des Moines Street (~~physical location~~), Des Moines, Iowa ~~50319~~ [50309](#); telephone (515)725-4120 or 1-800-645-4583. The fax number is (515)281-6501. The website address is www.iowaworkforce.org/wc.

ITEM 2. Amend subrule 4.9(8) as follows:

4.9(8) Withdrawal of counsel. Counsel may withdraw if another counsel has appeared or if the client's written consent accompanies the withdrawal.

Under all other circumstances, counsel may withdraw only upon the order of the workers' compensation commissioner after making written application. Counsel shall give the client written notice that the client has the right to object to the withdrawal by filing written objections and a request for a hearing to the Division of Workers' Compensation, ~~1000 East Grand Avenue, Des Moines, Iowa 50319, when filing by mail,~~ or 150 Des Moines Street, Des Moines, Iowa ~~50319~~ [50309](#), ~~when filing in person,~~ within ten days following the date the notice was mailed or personally delivered to the client. The client's response does not need to be filed in WCES but may be mailed or delivered to the division. Counsel's application shall be accompanied by proof that a copy of the application and notice was sent by certified mail addressed to the client's last-known address or was delivered to the client personally. If no objections are timely filed, the withdrawal will become effective when approved by the workers' compensation commissioner. If objections are timely filed, a hearing on the application will be held. No withdrawal under this subrule will be effective without the approval of the workers' compensation commissioner. The filing of an application to withdraw stays all pending matters until a ruling is made on the application.

ITEM 3. Amend rule 876—5.5(17A) as follows:

876—5.5(17A) Inquiries. Inquiries concerning the status of a declaratory order proceeding may be made to the Workers' Compensation Commissioner, ~~1000 E. Grand~~ [150 Des Moines Street](#), Des Moines, Iowa ~~50319-0209~~ [50309](#).

ITEM 4. Amend subrule 5.6(2) as follows:

5.6(2) Filing. All petitions for declaratory orders, petitions for intervention, briefs, or other papers in a proceeding for a declaratory order shall be filed with the Workers' Compensation Commissioner, ~~1000 E. Grand, Des Moines, Iowa 50319, when filed by mail,~~ or 150 Des Moines Street, Des Moines, Iowa ~~50319, when filed in person~~ [50309](#).

ITEM 5. Amend **876—Chapter 7**, preamble, as follows:

The worker's compensation division of workers' compensation the workforce development department hereby adopts the petition for rule making segments of the Uniform Administrative Rules, with the following exceptions and amendments, rules of the Governor's Task Force on Uniform Rules on Agency Procedure relating to petitions for rule making which are printed in

~~the first volume of the Iowa Administrative Code, with the following amendments published at www.legis.iowa.gov/docs/publications/ACOD/767403.pdf on the General Assembly's website.~~

ITEM 6. Amend rule 876—7.1(17A) as follows:

876—7.1(17A) Petition for rule making.

In lieu of the words “designate office” insert “the Division of Workers’ Compensation, Department of Workforce Development, ~~4000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309.”

In lieu of the words “AGENCY NAME”, the heading on the petition form should read:

BEFORE THE DIVISION OF WORKERS’ COMPENSATION

ITEM 7. Amend rule 876—7.3(17A) as follows:

876—7.3(17A) Inquiries. Inquiries concerning the status of a petition for rule making may be made to the Division of Workers’ Compensation, Department of Workforce Development, ~~4000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309.

ITEM 8. Amend rule 876—8.8(85,17A) as follows:

876—8.8(85,17A) Payroll tax tables. Tables for determining payroll taxes to be used for the period July 1, ~~2019~~ 2020, through June 30, ~~2020~~ 2021, are the tables in effect on July 1, ~~2019~~ 2020, for computation of:

1. Federal income tax withholding according to the percentage method of withholding for weekly payroll period. (~~Internal Revenue Service, Employer’s Supplemental Tax Guide, Publication 15-A [2018]~~ Federal Income Tax Withholding Methods, Publication 15-T [2019].)
2. ~~Iowa Withholding Tax Guide~~ Iowa income tax withholding for weekly pay period. (Iowa Department of Revenue Iowa Withholding Tax Rate Tables [Effective January 1, ~~2019~~ 2020].)
3. Social Security and Medicare withholding (FICA) at the rate of 7.65 percent. (Internal Revenue Service, Circular E, Employer’s Tax Guide, Publication 15 [~~2018~~ 2019].)

This rule is intended to implement Iowa Code section 85.61(6).

ITEM 9. Amend **876—Chapter 9**, preamble, as follows:

The workers’ compensation division of the workforce development department hereby adopts, with the following exceptions and amendments, rules of the Governor’s Task Force on Uniform Rules ~~of on~~ Agency procedure Procedure relating to public records and fair information practices which are ~~printed in the first volume of the Iowa Administrative Code~~ published at www.legis.gov/docs/publications/ACOD/767403.pdf on the General Assembly’s website.

ITEM 10. Amend subrule 9.3(1) as follows:

9.3(1) Location of record. In lieu of the words “(insert agency head)”, insert “commissioner”. Also, in lieu of the words “(insert agency name and address)”, insert “Division of Workers’ Compensation, ~~4000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309”.

ITEM 11. Amend rule 876—9.6(17A,22,85-87) as follows:

876—9.6(17A,22,85-87) Procedure by which additions, dissents, or objections may be entered into certain records. Insert immediately following “. . . official record of any agency proceeding.” the following sentence: “Any additions, dissents, or objections entered into the record shall not be considered evidence in a contested case proceeding.” In lieu of the words “(designate office)”, insert “the Division of Workers’ Compensation, ~~4000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309”.

ITEM 12. Amend subparagraph **9.13(1)“d”(8)** as follows:

(8) Policy manuals. The agency employees’ manuals are available in the administrative office of the agency. Subscriptions to all or part of the employees’ manuals are available at the cost of production

and handling. Requests for subscription information should be addressed to the Division of Workers' Compensation, ~~1000 East Grand Avenue~~ 150 Des Moines Street, Des Moines, Iowa ~~50319~~ 50309. Policy manuals may contain confidential information under Iowa Code section 17A.2(7) "f" or other applicable provision of law.

ITEM 13. Amend rule 876—12.3(17A) as follows:

876—12.3(17A) Form of criticism. The division of workers' compensation is designated as the office where interested persons may submit written criticism regarding an administrative rule of the Workers' Compensation Division[876]. Written criticism should be mailed or delivered to the Division of Workers' Compensation, ~~1000 East Grand Avenue, Des Moines, Iowa 50319;~~ or delivered to 150 Des Moines Street, Des Moines, Iowa 50319 50309. A criticism of a specific rule must be more than a mere lack of understanding of a rule or a dislike regarding the rule. To constitute a criticism of a rule, the criticism must be in writing, indicate it is a criticism of a specific rule, be signed by the complainant, not be part of any other filing with the workers' compensation commissioner or department of workforce development, and have a valid legal basis for support. All criticisms received on any rule will be kept in a separate record for a period of five years by the workers' compensation commissioner and be a public record open for public inspection. All criticisms must substantially conform to the following form:

BEFORE THE WORKERS' COMPENSATION COMMISSIONER		
<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> CRITICISM BY (NAME OF PERSON SUBMITTING CRITICISM).	}	<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> CRITICISM OF (SPECIFY RULE THAT IS CRITICIZED).

Reasons for criticism:

Name, address, telephone number and signature of person submitting criticism.

ITEM 14. Amend rule 876—12.4(17A) as follows:

876—12.4(17A) Requests for waiver of rules. Requests for waiver of a rule in the Workers' Compensation Division[876] of the Iowa Administrative Code shall be made to the Workers' Compensation Commissioner, ~~1000 E. Grand, Des Moines, Iowa 50319, by mail; or~~ 150 Des Moines Street, Des Moines, Iowa ~~50319, in person~~ 50309. All requests for waiver of a rule must be in writing and are a public record open for inspection. The person requesting the waiver must submit all facts relied upon in requesting the waiver. The person requesting waiver of the rule must provide clear and convincing evidence that compliance with the rule will create an undue hardship on the person requesting the waiver. A concise memorandum brief and argument, if any is filed, shall be attached to the request for waiver at the time the request is filed. The workers' compensation commissioner shall grant or deny the waiver within 60 days of the date the request is filed with the agency. The workers' compensation commissioner shall deny the request if the request is for waiver of a statute. If the request for waiver relates to a time requirement of a rule, the request must be received before the time specified in the rule has expired. The workers' compensation commissioner may deny the request if the request does not comply with the provisions of this rule. All requests for waiver must substantially conform to the following form:

BEFORE THE WORKERS' COMPENSATION COMMISSIONER		
<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> (NAME OF PERSON REQUESTING WAIVER).	}	<div style="border-bottom: 1px solid black; height: 1.2em; margin-bottom: 5px;"></div> REQUEST FOR WAIVER OF (SPECIFY RULE FOR WHICH WAIVER IS REQUESTED).

Reasons for requesting waiver:

Name, address, telephone number and signature of person submitting waiver request.